

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

NOT AN LLC d/b/a/ JSD SUPPLY,

Plaintiff,

v.

BUREAU OF ALCOHOL, TOBACCO,  
FIREARMS AND EXPLOSIVES; UNITED  
STATES DEPARTMENT OF JUSTICE; and  
GARY M. RESTAINO AS THE ACTING  
DIRECTOR OF ATF,

Defendants.

Case No. 2:22-cv-00747-WSS

**PLAINTIFF’S EMERGENCY MOTION FOR TEMPORARY RESTRAINING  
ORDER AND/OR PRELIMINARY INJUNCTION**

COMES NOW Plaintiff Not An LLC, d/b/a JSD Supply, (“Plaintiff” or “JSD Supply”), and hereby requests, pursuant to Fed. R. Civ. P. 65(a), that this Court issue a Temporary Restraining Order and/or Preliminary Injunction, enjoining Defendants from enforcing an ATF Cease and Desist Order issued on May 9, 2022 and hand-delivered to Plaintiff on May 12, 2022.

Unless enjoined, Plaintiff will be unable to continue business selling firearms parts and accessories that are entirely unregulated by federal law. As explained in the contemporaneously filed Memorandum in Support, Plaintiff is likely to succeed in establishing that, in addition to violations of various constitutional provisions, Defendants have violated the Administrative Procedures Act in enforcing a new and novel interpretation of the Gun Control Act of 1968 against firearms parts and accessories, which is in excess of its statutory authority and in direct and open defiance of statutory text.

The resulting harm to Plaintiff is immediate and ongoing, and due to the exigency of the

circumstances and the irreparable nature of the injury, a temporary restraining order would prevent further harm and return the status quo. Plaintiff respectfully requests a hearing on its Motion as soon as practically possible by this Court.

Further, this Court should issue a temporary restraining order and preliminary injunction to preserve the status quo pending a resolution of this matter on the merits. As explained at greater length in the accompanying Memorandum, the balance of equities and the public interest favors granting an injunction. Because a preliminary injunction presents no monetary risk to Defendants, Plaintiff requests that the bond be set at \$1, or altogether waived. Fed. R. Civ. P. 65(c).

Plaintiff requests that the Court issue an Order enjoining Defendants' enforcement of their Cease and Desist Order until such time as the Court can rule on the merits of Plaintiff's Verified Complaint.

Upon filing this Motion and accompanying Memorandum in Support, Plaintiff caused to be delivered a true and correct copy to the following:

Daniel Riess, Esq.  
Trial Attorney  
U.S. Department of Justice, Civil Division  
1100 L Street, NW  
Washington, D.C. 20005  
Phone: 202-353-3098  
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Matthew P. Varisco, Esq.  
Special Agent in Charge  
Philadelphia Field Division, ATF  
601 Walnut Street, Suite 1000E  
Philadelphia, PA 19106  
Phone: 215-446-7800  
Email: PhilDiv@atf.gov

Dated: May 20, 2022

Respectfully submitted,

By: s/ David J. Berardinelli

David J. Berardinelli (Pa. ID No. 79402)

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*\*Admission pro hac vice pending*

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*\*Admission pro hac vice pending*

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Defendants.

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**CERTIFICATE OF SERVICE**

I declare under penalty of perjury that a copy of Plaintiff Not An LLC d/b/a JSD Supply's Emergency Motion For Temporary Restraining Order and/or Preliminary Injunction was served today via First Class Mail postage prepaid and electronic mail to:

Daniel Riess (TX Bar #24037359)  
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Date: May 20, 2022

s/ David J. Berardinelli  
David J. Berardinelli